

# HOUSE BILL No. 1171

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-11-2-36.5; IC 13-17-14; IC 16-41-39.4-1; IC 16-41-39.4-3.

**Synopsis:** Lead-based paint. Sets the times for expiration and renewal of lead-based paint activities licenses and adjusts training requirements for licensure. Provides for the licensing and training of clearance examiners. With an exception for certain homeowners, prohibits the use of certain methods to remove lead-based paint and requires that removed paint be discarded. Requires a laboratory that tests the blood of certain children for lead to report to the department of health. Requires the environmental quality service council to consider whether to recommend legislation to provide limited protection from liability to a landlord who has made property lead safe or lead free.

**Effective:** July 1, 2002.

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**Avery, Atterholt, Porter**

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January 9, 2002, read first time and referred to Committee on Environmental Affairs.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1171

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 13-11-2-36.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2002]: **Sec. 36.5. "Component", for purposes**  
4 **of IC 13-17-14, has the meaning set forth in 24 CFR 35.110, as in**  
5 **effect July 1, 2002.**

6 SECTION 2. IC 13-17-14-3 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) A person that  
8 engages in lead-based paint activities must obtain a license under this  
9 chapter and under rules adopted by the board under section 5 of this  
10 chapter. **Lead-based paint activities licenses expire as follows:**

11 **(1) On June 30, 2004, if issued before July 1, 2002.**

12 **(2) Two (2) years after the date of issuance of a license based**  
13 **on an initial application, if issued after June 30, 2002.**

14 **(3) Three (3) years after the date of issuance of a license based**  
15 **on a renewal application, if issued after June 30, 2002.**

16 (b) A person may receive a lead-based paint activities license under  
17 this chapter for the following disciplines:



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- (1) Inspector.
- (2) Risk assessor.
- (3) Project designer.
- (4) Supervisor.
- (5) Abatement worker.
- (6) Contractor.

(c) **A person may receive a clearance examiner license under this chapter. A person that engages in the clearance of nonabatement activities under 24 CFR 35.1340(b)(1)(iv), as in effect July 1, 2002, must obtain a clearance examiner license under this chapter and under rules adopted by the board under section 5 of this chapter. A clearance examiner license expires as follows:**

- (1) Two (2) years after the date of issuance of a license based on an initial application.**
- (2) Three (3) years after the date of issuance of a license based on a renewal application.**

(d) A person that enters into a contract requiring the person to execute for compensation lead-based paint activities shall hold a lead-based paint activities contractor's license.

~~(d)~~ (e) **A person shall must:**

- (1) take required training and pass an examination provided in a lead-based paint training course **or clearance examiner training course, as appropriate**, approved by the department;
- (2) **for a license in the discipline of:**

- (A) inspector;**
- (B) risk assessor;**
- (C) project designer; or**
- (D) supervisor;**

pass an examination provided by the department or a third party as required by rules adopted by the board under section 5 of this chapter; and

- (3) meet any requirements established by rules adopted by the board under section 5 of this chapter;

before a person may receive a lead-based paint activities license **or clearance examiner license.**

~~(e)~~ (f) The department may issue a license for a position listed under subsection (b) **or (c)** if the applicant submits proof to the department that the applicant satisfies the training, examination, and other requirements for the license under this chapter.

~~(f)~~ (g) **A lead-based paint activities license or a clearance examiner license may be renewed for a period of three (3) years. To renew a license, a person who holds a license for a position listed**



in subsection (b) **or** (c) must complete periodic refresher training and pass any re-examination required by rules adopted under section 5 of this chapter.

~~(g)~~ **(h)** A lead-based paint activities contractor licensed under this chapter may not allow an agent or employee of the contractor to:

- (1) exercise control over a lead-based paint activities project;
- (2) come into contact with lead-based paint; or
- (3) engage in lead-based paint activities;

unless the agent or employee is licensed under this chapter.

~~(h)~~ **(i)** A person engaging in lead-based paint activities shall comply with the work practice standards established in rules adopted by the board under section 5 of this chapter **and the applicable work practice standards established in section 12 of this chapter** for performing the appropriate lead-based paint activities.

SECTION 3. IC 13-17-14-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 4.5. (a) A clearance examiner training program must meet requirements specified in rules adopted by the board under section 5 of this chapter before providing initial or refresher training to a person seeking a license under section 3(c) of this chapter.**

**(b) The department may approve a clearance examiner training course offered as part of a program that satisfies the requirements of subsection (a).**

**(c) A clearance examiner training course must be conducted by an instructor approved by the department as provided in the rules adopted by the board under section 5 of this chapter.**

SECTION 4. IC 13-17-14-5, AS AMENDED BY P.L.111-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 5. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter. The rules must contain at least the elements required to receive program authorization under 40 CFR 76, Subpart L, 40 CFR 745, Subpart L, as in effect July 1, 2002, and must do the following:**

**(1) Establish minimum requirements for the issuance of a license for:**

**(A) lead-based paint activities inspectors, risk assessors, project designers, supervisors, abatement workers, and contractors; and**

**(B) clearance examiners.**

**(2) Establish minimum requirements for approval of the providers of:**



- 1           **(A) lead-based paint activities training courses; and**  
 2           **(B) clearance examiner training courses.**  
 3       (3) Establish minimum qualifications for:  
 4           **(A) lead-based paint activities training course instructors; and**  
 5           **(B) clearance examiner training course instructors.**  
 6       (4) Extend the applicability of the licensing requirements to other  
 7       facilities as determined necessary by the board.  
 8       (5) Establish work practice standards.  
 9       (6) Establish a department or third-party examination process.  
 10       (7) Identify activities, if any, that are exempted from licensing  
 11       requirements.  
 12       (8) Establish a fee of not more than one hundred fifty dollars  
 13       (\$150) per person, per license, per year for a person seeking a  
 14       license under section 3 of this chapter. However, the following  
 15       may not be required to pay a fee established under this  
 16       subdivision:  
 17           (A) A state.  
 18           (B) A municipal corporation (as defined in IC 36-1-2-10).  
 19           (C) A unit (as defined in IC 36-1-2-23).  
 20       (9) Establish a fee of not more than one thousand dollars (\$1,000)  
 21       per course, per year, for a lead-based paint training program  
 22       seeking approval of a lead-based paint training course under  
 23       section 4 of this chapter. However, the following may not be  
 24       required to pay a fee established under this subdivision:  
 25           (A) A state.  
 26           (B) A municipal corporation (as defined in IC 36-1-2-10).  
 27           (C) A unit (as defined in IC 36-1-2-23).  
 28           (D) An organization exempt from income taxation under 26  
 29       U.S.C. 501(a).  
 30       **(10) Establish a fee of not more than one thousand dollars**  
 31       **(\$1,000) per course, per year, for a clearance examiner**  
 32       **training program seeking approval of a clearance examiner**  
 33       **training course under section 4.5 of this chapter. However, the**  
 34       **following may not be required to pay a fee established under**  
 35       **this subdivision:**  
 36           **(A) A state.**  
 37           **(B) A municipal corporation (as defined in IC 36-1-2-10).**  
 38           **(C) A unit (as defined in IC 36-1-2-23).**  
 39           **(D) An organization exempt from income taxation under**  
 40       **26 U.S.C. 501(a).**  
 41       (b) The amount of the fees under subsection (a) may not be more  
 42       than is necessary to recover the cost of administering this chapter.

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(c) The proceeds of the fees under subsection (a) must be deposited in the lead trust fund established by section 6 of this chapter.

**(d) The minimum requirements established under subsection (a)(1) must be sufficient to allow the clearance examiner to perform clearance examinations without the approval of a certified risk assessor or inspector as provided in 24 CFR 35.1340(b)(1)(iv), as in effect July 1, 2002.**

SECTION 5. IC 13-17-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) The commissioner may under IC 4-21.5 reprimand, suspend, or revoke the license of a **clearance examiner or a** lead-based paint activities inspector, risk assessor, project designer, supervisor, worker, or contractor for any of the following reasons:

- (1) Violating any requirements of this chapter or rules adopted under this chapter.
- (2) Fraudulently or deceptively obtaining or attempting to obtain a license under this chapter.
- (3) Failing to meet the qualifications for a license or failing to comply with the requirements of air pollution control laws or rules adopted by the board.
- (4) Failing to meet an applicable federal or state standard for lead-based paint activities.

(b) The commissioner may under IC 4-21.5 reprimand a lead-based paint activities contractor or suspend or revoke the license of a lead-based paint activities contractor that employs a person who is not licensed under this chapter for a purpose that requires the person to hold a license issued under this chapter.

(c) The commissioner may under IC 4-21.5 revoke the approval of a **clearance examiner or a** lead-based paint activities training course for any of the following reasons:

- (1) Violating any requirement of this chapter.
- (2) Falsifying information on an application for approval.
- (3) Misrepresenting the extent of a training course's approval.
- (4) Failing to submit required information or notifications in a timely manner.
- (5) Failing to maintain required records.
- (6) Falsifying approval records, instructor qualifications, or other approval information.

SECTION 6. IC 13-17-14-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 12. (a) This section applies to:**

- (1) remodeling, renovation, and maintenance activities at**

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target housing and child occupied facilities built before 1960;  
and

(2) lead-based paint activities.

(b) This section does not apply to an individual who performs remodeling, renovation, or maintenance activities within a residential dwelling that the individual owns, unless the residential dwelling is occupied:

(1) while the activities are being performed, by an individual other than the owner or a member of the owner's immediate family; or

(2) by a child who:

(A) is less than seven (7) years of age or an age specified in rules adopted by the board under section 5 of this chapter; and

(B) resides in the building and has been identified as having an elevated blood lead level.

(c) A person not exempted under subsection (b) from the application of this section that performs an activity under subsection (a) that disturbs:

(1) exterior painted surfaces of more than twenty (20) square feet;

(2) interior painted surfaces of more than two (2) square feet in any one (1) room or space; or

(3) more than ten percent (10%) of the combined interior and exterior painted surface area of components of the building;

shall meet the requirements of subsections (e), (f), and (g).

(d) For purposes of this section, paint is considered to be lead-based paint unless the absence of lead in the paint has been determined by a lead-based paint inspection conducted under this chapter.

(e) A person may not use any of the following methods to remove lead-based paint:

(1) Open flame burning or torching.

(2) Machine sanding or grinding without high efficiency particulate air local exhaust control.

(3) Abrasive blasting or sandblasting without high efficiency particulate air local exhaust control.

(4) A heat gun that:

(A) operates above one thousand one hundred (1,100) degrees Fahrenheit; or

(B) chars the paint.

(5) Dry scraping, except:

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(A) in conjunction with a heat gun; or

(B) within one (1) foot of an electrical outlet.

(6) Dry sanding, except within one (1) foot of an electrical outlet.

(f) In a space that is not ventilated by the circulation of outside air, a person may not strip lead-based paint using a volatile stripper that is a hazardous chemical under 29 CFR 1910.1200, as in effect July 1, 2002.

(g) A person conducting activities under subsection (a) on painted exterior surfaces may not allow visible paint chips or painted debris that contains lead-based paint to remain on the soil, pavement, or other exterior horizontal surface for more than forty-eight (48) hours after the surface activities are complete.

SECTION 7. IC 16-41-39.4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. The state department may adopt rules under IC 4-22-2 to implement this ~~section~~ **chapter**.

SECTION 8. IC 16-41-39.4-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. A person that examines the blood of a child less than seven (7) years of age for the presence of lead must report to the state department the results of the examination not later than one (1) week after completing the examination. The report must include at least the following:

(1) With respect to the child whose blood is examined:

(A) the name;

(B) the date of birth; and

(C) the name of a parent or guardian.

(2) With respect to the examination:

(A) the date;

(B) the type of blood test performed;

(C) the person's normal limits for the test;

(D) the results of the test; and

(E) the person's interpretation of the results of the test.

(3) The names, addresses, and telephone numbers of:

(A) the person; and

(B) the attending physician, hospital, clinic, or other specimen submitter.

SECTION 9. [EFFECTIVE JULY 1, 2002] (a) Before July 1, 2003, the air pollution control board shall amend 326 IAC 23 to reflect this act.

(b) This SECTION expires July 1, 2003.

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1       SECTION 10. [EFFECTIVE JULY 1, 2002] (a) Before January 1,  
2       2003, the environmental quality service council shall consider  
3       whether the general assembly should enact a statute similar to  
4       Wisconsin Statute 254.173 to provide limited protection from  
5       liability to a landlord who has made property lead safe or lead free.  
6       (b) This SECTION expires January 1, 2003.

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